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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,877	02/19/2004	Peter Kochersperger	1857.2140000	1990
26111 7590 05/14/2010 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER DUONG, KHANH B				
ART UNIT		PAPER NUMBER		
2822				
MAIL DATE		DELIVERY MODE		
05/14/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/780,877

Applicant(s)

KOCHERSPERGER, PETER

Examiner

KHANH B. DUONG

Art Unit

2822

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Zandra V. Smith/
Supervisory Patent Examiner, Art Unit 2822

Continuation of 11. does NOT place the application in condition for allowance because: the Examiner respectfully disagrees with Applicant's position that the limitations as recited in claim 12 are not functional or intended use limitations. For example, the limitation "a wafer chuck configured to receive a wafer" merely means a wafer chuck was set up to receive a wafer. While it is true that "a wafer chuck" is a structural limitation, the limitation "configured to receive a wafer" cannot be considered as a structural limitation because it is directed to an intended use of the wafer chuck. This would be equivalent to claiming a table being configured to receive a laptop computer. While a table is a structural limitation, its intended use to support a laptop computer is definitely not a structural limitation. For the table can be used to support other objects such as books, coffee cups, aquariums, etc. Thus, the intended use limitation does not structurally distinguish the claims over Getchel. The same rationale can be applied to the other intended use limitations: "an expandable annular tube ... configured to expand the wafer chuck without substantially expanding the wafer, such that an initial stress at an interface between the wafer and the wafer chuck is created" and "the expandable annular tube ... configured to expand to in turn expand the wafer chuck when pressurized". In addition, the Examiner respectfully submits that the tube 580 does appear in FIG. 11A have a generally annular (ring or round) shape from plan view. Although not in a typical ring shape, the tube 580 can still be considered as a ring shape. Also, in FIG. 11B, the cross section of the tube 580 also appears to have an annular shape. In regard to whether or not the annular tube 580 is "expandable", the Examiner respectfully submits that it is entirely possible that the annular tube 580 (made of a metal material) can be expanded if it were subjected to certain critical pressure and temperature ranges. Lastly, in response to Applicant's argument that the annular tube 580 is not coupled to an outer edge of the wafer chuck 533, the Examiner respectfully disagrees because Getchel clearly shows in FIG. 11A that the annular tube 580 is coupled (e.g. connected to or joined together) to an outer edge of the wafer chuck 533 through the material of the wafer chuck 533 that is between the tube 580 and the outer edge of the wafer chuck 533.

/Zandra V. Smith/
Supervisory Patent Examiner, Art Unit 2822